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Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory

Letter dated 13 June 2012 from the Secretary-General addressed to the President of the General Assembly

In accordance with the provision of paragraph 6 (h) of General Assembly resolution ES-10/17 adopted 15 December 2006, I have the honour to transmit herewith a progress report from the Board of the United Nations Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory (see annex).

I should be grateful if you would bring the present letter and its annex to the attention of the members of the General Assembly.

(*Signed*) **BAN** Ki-moon

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Annex

Letter dated 8 June 2012 from the members of the Board of the United Nations Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory addressed to the Secretary-General

We have the honour to provide a progress report of the Board of the United Nations Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory for transmission to the General Assembly in accordance with paragraph 6 (h) of resolution ES-10/17 (see enclosure).

(*Signed*) Ronald **Bettauer**
Member of the Board

(*Signed*) Harumi **Hori**
Member of the Board

(*Signed*) Matti **Pellonpää**
Member of the Board

Enclosure

Progress report from the Board of the United Nations Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory

1. The Board of the United Nations Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory (the Register of Damage) provides this progress report, in accordance with paragraph 6 (h) of General Assembly resolution ES-10/17, covering the period from 11 June 2011 to 8 June 2012. The Board's previous report was contained in document A/ES-10/522 of 12 July 2011.

2. During the reporting period, the Register of Damage continued to collect, process and consider claim forms for inclusion in the Register in accordance with its Rules and Regulations Governing Registration of Claims adopted in June 2009 (see www.unrod.org/docs/UNRoD Rules and Regulations.pdf).

3. Since its launch in 2008, the community outreach campaign has been completed in 110 communities with a population of approximately 415,000 in the governorates of Jenin, Tubas, Tulkarem, Qalqiliya and Salfit in the Occupied Palestinian Territory, as well as in some communities around East Jerusalem. Thousands of printed posters and leaflets were distributed to inform potential claimants of the requirements for completing a claim for registration of damage. In addition, over a hundred meetings were held during the reporting period by the Register of Damage claim intakers with governors, mayors, local councils and potential claimants in the areas covered by the outreach campaign.

4. By 8 June 2012, a total of 28,310 claim forms for registration of damage and over 320,000 supporting documents had been collected in 98 Palestinian communities and delivered to the Office of the Register of Damage in Vienna. Claim intake activities have been completed in four out of nine affected governorates — Tubas, Jenin, Tulkarem and Qalqiliya — and are ongoing in Salfit governorate.

5. As of 8 June 2012, the Board has reviewed 6,316 claim forms, decided to include most or all of the losses set out in 5,524 claim forms, excluded 476 claim forms where none of the losses met the eligibility criteria and decided to defer action on 316 claim forms pending further review.

6. There is thus a considerable gap between the number of claim forms collected and the number processed by the Vienna Office of the Register of Damage and included in the Register by the Board. This gap is likely to continue to grow, given the small size of the staff of the Vienna Office and the complexity of the Board's task of reviewing claims.

7. Since its previous report, the Board has held four meetings in Vienna to review claim forms that had been translated, processed and reviewed by the Office staff. The Board met from 12 to 16 September 2011, from 12 to 16 December 2011, from 5 to 9 March 2012 and from 4 to 8 June 2012. At the four meetings, respectively, the Board reviewed and decided to include in the Register most or all of the losses set out in 424 claim forms, 399 claim forms, 826 claim forms and 898 claim forms. At its September, December, March and June meetings, respectively, the Board decided

not to include in the Register 1 claim form, 23 claim forms, 95 claim forms and 84 claim forms, since none of the losses in the forms met the eligibility criteria in the Register of Damage's Rules and Regulations. At its December, March and June meetings, respectively, the Board also decided to defer action on 215 claim forms, 90 claim forms, and 5 claims forms pending further review.

8. All claims reviewed during the reporting period were filed by individuals. The forms included 2,565 claims for category A (agriculture) losses, 88 claims for category B (commercial) losses, 19 claims for category C (residential) losses, and 199 claims for category E (access to services) losses.

9. The Board, in its review of claims, continued to apply the eligibility criteria in accordance with article 11 of the Rules and Regulations Governing Registration of Claims. The Board continued to employ sampling techniques, as provided for in article 12(3) of the Rules and Regulations. In this regard, the Board has initiated consultations with a statistician in order to review the sampling methodology it applies. Claims that did not meet the eligibility criteria were either excluded from the Register or returned to the claimants in order for them to provide clarification.

10. The majority of claims reviewed by the Board during the reporting period were category A (agricultural) claims from various locations in the Occupied Palestinian Territory.

11. The Board continued its exploration of difficult issues of local rules, practice and documentation relating to the ownership, inheritance of land in the Occupied Palestinian Territory, in order to determine whether the claimant had a prima facie legal interest in land and the claimant's share. Complex fractional calculations continued to be necessary in cases where there were multiple owners in order to record a claimant's specific share of the losses to be included in the Register.

12. Paragraph 8 of the Board's 2011 report identified some of the issues addressed and decisions reached during the previous reporting period. The following are among the issues addressed and decisions reached by the Board during the present reporting period.

General

(a) The Board decided that each claim to be registered, even if submitted along with a group of similar claims, must itself contain a sufficiently clear and accurate reference to the documents and evidence asserted to support the claim (which can be by incorporating materials in another claim by reference).

Category A (agricultural) claims

(b) The Board decided that claims for complete loss of access to land as a result of the construction of the Wall could be included in the Register in cases where claimants could, until the construction of the Wall, access land that had not at the time been subject to a requisition order but, for other reasons, those claimants were not able to utilize the land prior to the construction of the Wall.

(c) The Board decided that, in general, when registering a loss, the size of a claimed plot will be recorded as stated in a land record clearly

documenting its size even if different from claimant's assertion of its size except that (i) a plot size larger than that claimed will not be recorded, and (ii) where a document submitted by the claimant states a size different from in the land record, the plot's size will be recorded as unclear.

Category B (commercial) claims

(d) The Board decided not to include in the Register commercial claims where no evidence of the existence and the claimant's ownership of the business before or at the time of the Wall was provided.

(e) The Board decided that a claimant's interest in a business can be demonstrated by means other than business documentation, e.g., by clearly identifiable photographs, but that such cases need to be examined on a case-by-case basis.

Category C (residential) claims

(f) The Board decided that losses for relocation in order to access educational establishments should be registered under category C, irrespective of which categories they have been claimed under.

(g) The Board decided that the threat of demolition of a residential property did not constitute a material loss that could be included into the Register.

Category E (access to services) claims

(h) The Board decided that losses relating to restricted access to education by persons in the Seam Zone could be included in the Register even though enrolment in the educational establishment occurred after the construction of the Wall, where the Wall necessarily impeded the access of the claimant to the educational establishment.

(i) The Board decided that, in general, claims solely for additional living costs are too speculative to be registered.

(j) The Board decided not to include losses attributable to independent actions of soldiers at checkpoints connected to the Wall as they were intervening acts which broke the causal link to the construction of the Wall.

(k) In relation to claims for additional transportation caused by the construction of the Wall, the Board checked the claims against estimates of the time it would usually take to travel various distances before and after the construction of the Wall.

13. As before, the Board would like to express its appreciation for the indispensable cooperation extended by the Palestinian Authority and the Palestinian National Committee for the Register of Damage, as well as for the support provided by local Governors, mayors and members of village councils on many practical aspects, without which outreach and claim-intake activities could not be undertaken successfully. In March 2012, the Executive Director of the Office of the Register, Mr. Vladimir Goryayev, visited the Occupied Palestinian Territory and held in-depth consultations about the Register of Damage's activities with officials from the Palestinian Authority, including Prime Minister Salam Fayyad who expressed his

appreciation for the results achieved so far by the Register of Damage. The Executive Director also visited areas affected by the construction of the Wall where he held meetings with governors, mayors, local councils and claimants. All of them expressed appreciation for the work being done by the Office of the Register of Damage.

14. As for the Government of Israel, it continues to consider that any claims in relation to damage caused by the construction of the Wall should be addressed through the existing Israeli mechanism. On the practical level, the Executive Director of the Register of Damage continues to maintain constructive contacts with relevant Israeli authorities and, during the reporting period, the Office of the Register of Damage did not experience any problem with access, freedom of movement, security, delivery of needed materials or issuance of required visas.

15. The Board of the Register of Damage notes with satisfaction the good cooperation with United Nations agencies and offices present on the ground in the Occupied Palestinian Territory, as called upon in paragraph 14 of General Assembly resolution ES-10/17. The Board particularly appreciates the efficient and tangible contribution provided by the United Nations Office for Project Services in the areas of logistic, procurement, human and financial resources, and management in support of the Register of Damage. During the reporting period, the Register of Damage also continued to benefit from cooperation with the United Nations Special Coordinator for the Middle East Peace Process and his Office.

16. The outreach and claim-intake activities in the Occupied Palestinian Territory, which are currently conducted by 12 Register of Damage claims intakers, have since their initiation been funded by voluntary contributions from the Governments of Austria, Belgium, Finland, France, Jordan, Kazakhstan, Malaysia, Morocco, Norway, the Philippines, Turkey, Saudi Arabia, Switzerland and the Organization of Petroleum Exporting Countries Fund for International Development. The Board expresses its appreciation to these donors for providing funding and political support enabling the implementation of the provisions of General Assembly resolution ES-10/17.

17. Nevertheless, the funding situation in support of the activities carried out in the Occupied Palestinian Territory remains uncertain. The resources that are currently available will be exhausted by the end of October 2012, thus putting into question the continuation of the claim intake in the Occupied Palestinian Territory.

18. The Board commends the diligent and dedicated work of the secretariat.

19. The Board of the Register of Damage will continue to provide periodic reports.

Members of the Board of the Register of Damage

Vienna, 8 June 2012